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Counterclaim-Defendant Audrey Davis

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Audrey Davis,  
  
Plaintiff /  
Counterclaim-Defendant,  
  
v.  
  
Rhondie Voorhees,  
  
Defendant /  
Counterclaim-Plaintiff,  
  
and,  
  
ERAU,  
  
Defendant.

Case No. 3:21-cv-08249-DLR

**REPLY IN SUPPORT OF MOTION  
TO MODIFY SCHEDULING  
ORDER [DOCS. 43 & 65]**

Plaintiff Audrey Davis hereby files her reply in support of her motion to modify the Scheduling Order [Doc. 43] as modified on November 4, 2022 [Doc. 65].

Defendant Rhondie Voorhees's opposition to the motion [Doc. 72] is premised on the notion Ms. Davis has not been diligent in seeking discovery, but fails to address that the issues brought up by both her and the University of Montana in their responses to subpoenas and discovery requests (specifically, objections based on FERPA) were raised

1 for the first time only a matter of weeks before Ms. Davis sought the current extension of  
2 discovery. This is a new issue that hopefully can be resolved informally, but not by the  
3 current discovery cutoff. If Voorhees would prefer highly contentious discovery motion  
4 practice on an expedited schedule, then Davis can abide by that, but doing so is not in the  
5 spirit of congeniality expected by this court, nor the mandate of Fed. R. Civ. P. 1 that the  
6 Federal Rules “should be construed, administered, and employed by the court and the  
7 parties to secure a just, speedy, and inexpensive determination of every action and  
8 proceeding.” Voorhees certainly fails even to suggest that any prejudice would result from  
9 granting the requested extension. She just opposes it because Davis wants it.

10 Without citing anything specific, Voorhees complains that an extension also is not  
11 warranted because the documents and information requested from her and the University  
12 of Montana are not relevant and are disproportionate to the needs of the case. Without  
13 attaching the full sets of discovery requests and responses, Davis will merely state for now  
14 that Voorhees is not being forthcoming. The discovery requested bears directly on issues  
15 central to Voorhees’s counterclaim, including the extent to which Voorhees was involved  
16 in Title IX matters at the University of Montana, the reputation she had for involvement in  
17 Title IX matters there, and the particulars of her involvement in the case of Jame Wallack  
18 at the University of Montana, which underlie one of the statements that Voorhees claims is  
19 defamatory. Declaration of Marc J. Randazza, attached as **Exhibit 1**, at ¶ 4. Voorhees’s  
20 formulaic objections on relevance and proportionality grounds are also deficiencies in her  
21 responses that Davis will address, but it is primarily the new FERPA issues that warrants  
22 an extension.

23 Voorhees’ vituperative and deficient response notes that she has made frivolous  
24 objections and then claims to be surprised that Davis sought the discovery from the  
25

1 University of Montana. The reason is simple: Davis knows Voorhees' history of  
2 attempting to make things expensive and drawn out (for example, when she lied to the  
3 Court in Yavapai County that she had "no reason to believe" that Davis was on active duty,  
4 despite being fully aware of that fact – so that she could seek an unwarranted default). And  
5 Davis is well aware that Voorhees' counsel would prefer to pound the billing pad rather  
6 than conduct himself in a professional manner.

7 Voorhees suggests in her opposition that Davis "[b]ringing [her] objection to the  
8 court for resolution would likely make the subpoena to UMN entirely moot." Why bring  
9 these things to a head when there is a path of less resistance? Accordingly, Davis attempted  
10 to get the discovery from the University of Montana, which has been collegial and  
11 cooperative, but has significant concerns about FERPA. Would the Court prefer to have  
12 motion practice before it, or simply compel Voorhees to do what professionalism and  
13 courtesy would have mandated – just agree to an extension. After all, when ERAU asked  
14 for one, Davis gladly agreed. But, now that it is Davis' turn to request one, the courtesies  
15 have apparently become too much to bear.

16 Finally, Voorhees speculates that Davis not stipulating to a protective order in this  
17 case is somehow evidence of dilatory motive. This is nonsense. Davis did not stipulate to  
18 a protective order because she does not feel one is necessary or warranted in this case. She  
19 has nothing to hide, and Defendants never articulated any basis for needing one. Randazza  
20 Decl. at ¶ 5. Defendants should not assume they are entitled to unilaterally hide documents  
21 and information from public view, especially when such documents and information may  
22 be highly relevant to issues of great interest to, at the very least, the student body of ERAU.

23 Good cause exists to modify the scheduling order and extend pending discovery and  
24 related deadlines by 90 days. Voorhees' arguments to the contrary are unavailing – and her  
25

1 suggestion that instead of a minor extension that the parties should rack up the billing and  
2 bother the Court with motion practice are surprising and disappointing.

3  
4  
5 Dated: February 3, 2023.

Respectfully submitted,

6 /s/ Marc J. Randazza

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 3<sup>rd</sup> day of February, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document being served via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Marc J. Randazza  
Randazza Legal Group, PLLC

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